

REMARKS

Claims 1-24 are pending and stand rejected.

The Office Action objected to the drawings on the grounds that certain listed drawing elements were not labeled. Replacement sheets with those elements labeled are attached. Annotated sheets are also attached. Applicant respectfully requests that this rejection be withdrawn.

The Office Action rejected claims 9-16 under 35 USC 101 arguing that the claimed invention is directed to non-statutory subject matter because the claims are not written in terms of "computer" readable medium, stored with, embodied with or encoded with a "computer" program or computer executable instructions. Claim 9 has been amended to address this rejection. Applicant respectfully requests that this rejection be withdrawn in light of the amendment.

The Office Action rejected claims 9-16 under 35 USC 112, first paragraph on the grounds that the disclosure is not enabling. This rejection is internally inconsistent. On the one hand, the Office Action argues that the phrase "tangible storage medium" is critical or essential to the practice of the invention but is not included in the claims. On the other hand, Office Action argues that the term "tangible storage medium" is not specified by the disclosure. Both of these cannot be true.

According to MPEP 2168.08(c) "A feature which is taught as critical in a specification and is not recited in the claims should result in a rejection of such claim under the enablement provision section of 35 U.S.C. 112." The Office Action argues that the tangible storage medium is not specified by the disclosure but that would mean that this MPEP provision does not apply. Further, it is clear that the tangible storage medium is recited in the claims, which means, again, that this section does not apply.

In any case, claim 9 satisfies the enablement requirement of 35 USC 112, first paragraph.

A person of ordinary skill in the art would readily understand the phrase “tangible storage medium” and the phrase “computer-readable tangible storage medium” to include computer tapes, magnetic disks, optical disks, and other similar tangible storage media including future tangible storage media that have not yet been developed. Applicant respectfully requests that this rejection be withdrawn.

The Office Action rejected claims 9-16 under 35 USC 112, second paragraph, arguing that the recitation of “[a] computer program, stored on a tangible storage medium, for transferring data between computer system, the program including executable instructions that cause one or more computers to” is vague and indefinite because it is not known the metes and bounds of the claimed invention. Applicant assumes that the amendment to claim 9 resolves this issue. Otherwise, Applicant requests clarification of this rejection as to what in the quoted language from claim 9 is vague and ambiguous. Applicant respectfully requests that this rejection be withdrawn.

The Office Action rejected claims 1-4, 6-12, 14-20, and 22-24 under 35 USC 103(a) as being unpatentable over Janakiraman et al. (United States Patent Publication 2004/0196785) (hereinafter “Janakiraman”) in view of Geyer et al. (United States Patent No. 6,618,357) (hereinafter “Geyer”).

Applicant respectfully disagrees.

Janakiraman does not teach or suggest transmitting acknowledgement messages from the data destinations to the second gateway, as required by independent claims 1, 9 and 17. Janakiraman describes sending “acknowledgements from the receiving node 104 to the sending node 102,” paragraph [0024], lines 1-9. In the Applicant’s system, this is similar to sending

acknowledgements from the second computer network to the first computer network. It is not, however, the same as sending acknowledgements from the data destinations to the second gateway, both of which are within the second computer network. The Office Action does not suggest that this element is provided by Geyer.

Further, while Geyer describes “generating a pause frame which may be directed back upstream to the identified source stations,” Geyer, col. 5, lines 8-11, Geyer does not teach or suggest that such pause frames should be generated based at least in part on the reception of acknowledgement messages by the second gateway. The Office Action admits that this element is not provided by Janakiraman.

Thus, the Office Action’s proposed combination of Janakiraman and Geyer is missing at least two elements required by independent claims 1, 9, and 17. Therefore, claims 1, 9, and 17 are patentable over the combination of Janakiraman and Geyer. Applicant respectfully requests that the rejections of claims 1, 9, and 17 be withdrawn for this reason.

The Office Action argued that the phrase “capable of” in claim 2 does not positively support claim limitations and therefore that the limitation after the phrase will not be considered as a claim limitation. Claim 2 has been amended to eliminate the phrase in question.

Claims 2-4, 6-8, 10-12, 14-16, 18-20, and 22-24 all depend from claims 1, 9, or 17 and are patentable for at least the reasons stated above. Applicant respectfully requests that the rejections of these claims be withdrawn.

The Office Action rejected claims 5, 13, and 21 under 35 USC 103(a) as being unpatentable over Janakiraman and Geyer as previously described and further in view of Linkhorst-ko et al. (United States Patent Publication No. 2002/0075873) (hereinafter “Lindhurst-ko”). Claims 5, 13, and 21 depend from claims 1, 9, and 17, respectively. As discussed above,

Jankiraman and Geyer are missing two elements from claims 1, 9, and 17. Linkhurst-ko does not provide the two elements missing. Therefore, claims 5, 13, and 21, and are patentable for at least the reasons described above. Applicant respectfully requests that the rejections of these claims be withdrawn.

SUMMARY

Applicant contends that the claims are in condition for allowance, which action is requested. Applicant does not believe any fees are necessary with the submitting of this response. Should any fees be required, Applicant requests that the fees be debited from deposit account number 14-0225, Order Number 11235.

Respectfully submitted,

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